IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No. 798 of 2006

Dunkuribai Balaram Bhagat .. Appellant

versus

Dattatraya Hashya Mhatre & ors. .. Respondents

...

Mr.S.S. Patwardhan for the appellant.

Mr.Sanjay Prabhu for respondent nos.1 to 4, 6 to 8.

Mr.C.M.Lokesh i/b G.S.Hegde & Associates for respondent nos.12 and 13.

CORAM : D.G. KARNIK, J

DATED : 5th December 2006

P.C.:

1. Heard learned counsel for the parties.

2. The appeal is directed against the order passed in Exhibit-5 in Regular Civil Suit no.5 of 2004 filed by the appellant. According to the appellant, the original plaintiff,lands belonging to Balya K. Mhatre, the father of the appellant were acquired for the purposes of CIDCO,

Navi Mumbai. However, the award was passed and compensation was awarded to Hashya Balya Mhatre to the exclusion of the appellant and his father. The appellant has filed a suit claiming the share in the compensation as also for a share in the land which is likely to be allotted to Hashya B. Mhatre in lieu of the land acquired.

3. In the suit, the appellant claimed for an interim injunction restraining allotment of the land to Hashya Balya Mhatre to her exclusion. The trial court dismissed the application. That order is impugned in this appeal.

4. In my view, the appellant had a remedy of a reference under section 18 and 30 of the Land Acquisition Act. The Land Acquisition Act is a complete code in itself. The appellant ought to have availed of the remedies under the Land Acquisition Act and cannot file a separate suit claiming share in the compensation or share in the land to be allotted in lieu of the acquired land. In the circumstances, the trial Judge was right in rejecting the relief of interim injunction.

5. There is no merit in the appeal which is hereby dismissed.

(D.G. KARNIK, J)